

SENATE BILL 63

D4, E1, D3

2lr0910

By: **Senators Kelley, Astle, Colburn, Conway, DeGrange, Forehand, Klausmeier, Manno, Mathias, McFadden, Middleton, Pinsky, Pugh, Robey, Stone, and Young**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Failure to Provide Notice or Report – Civil**
3 **Liability and Criminal Penalty**

4 FOR the purpose of expanding immunity from civil liability or criminal penalty to a
5 person who provides or participates in providing notice of child abuse or neglect
6 to the appropriate authorities; adding a medical examiner and a parole or
7 probation agent to the list of individuals who are specifically required to notify
8 the appropriate authorities and make a certain report in a certain manner if the
9 individual, acting in a professional capacity in this State, has reason to believe a
10 child has been subjected to abuse or neglect; making it a misdemeanor, subject
11 to a certain penalty, for certain health practitioners, police officers, educators,
12 parole and probation agents, and human service workers to knowingly fail to
13 provide a certain notice or make a certain report of suspected child abuse or
14 neglect under certain circumstances; requiring the Office of the Chief Medical
15 Examiner to send an autopsy report to certain officials if the office finds a death
16 investigated by the office was caused by or related to child abuse or neglect;
17 establishing that an individual who is specifically required to provide a certain
18 notice or make a certain report who knowingly fails to provide the notice or
19 make the report may be held civilly liable for damages arising from the failure
20 to provide the notice or make the report; and generally relating to reporting
21 child abuse and neglect.

22 BY repealing and reenacting, with amendments,
23 Article – Courts and Judicial Proceedings
24 Section 5–620
25 Annotated Code of Maryland
26 (2006 Replacement Volume and 2011 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Family Law
2 Section 5–704
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2011 Supplement)
5 (As enacted by Chapter 635 of the Acts of the General Assembly of 1987)

6 BY repealing and reenacting, with amendments,
7 Article – Family Law
8 Section 5–708
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2011 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 5–620.

15 Any person who in good faith **PROVIDES OR PARTICIPATES IN PROVIDING**
16 **NOTICE OF ABUSE OR NEGLECT UNDER § 5–704(A) OR WHO** makes or participates
17 in making a report of abuse or neglect under [§ 5–704] **§ 5–704(B)**, § 5–705, or
18 § 5–705.1 of the Family Law Article or participates in an investigation or a resulting
19 judicial proceeding is immune from any civil liability or criminal penalty that would
20 otherwise result from making or participating in a report of abuse or neglect or
21 participating in an investigation or a resulting judicial proceeding.

22 **Article – Family Law**

23 5–704.

24 (a) Notwithstanding any other provision of law, including any law on
25 privileged communications, each health practitioner, police officer, **MEDICAL**
26 **EXAMINER, PAROLE AND PROBATION AGENT**, educator, or human service worker,
27 acting in a professional capacity in this State:

28 (1) who has reason to believe that a child has been subjected to abuse
29 or neglect, shall notify the local department or the appropriate law enforcement
30 agency; and

31 (2) if acting as a staff member of a hospital, public health agency, child
32 care institution, juvenile detention center, school, or similar institution, shall
33 immediately notify and give all information required by this section to the head of the
34 institution or the designee of the head.

1 (b) (1) [An] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, AN** individual who notifies the appropriate authorities under
3 subsection (a) of this section shall make:

4 (i) an oral report, by telephone or direct communication, as
5 soon as possible to the local department or appropriate law enforcement agency; and

6 (ii) a written report:

7 1. to the local department not later than 48 hours after
8 the contact, examination, attention, or treatment that caused the individual to believe
9 that the child had been subjected to abuse or neglect; and

10 2. with a copy to the local State's Attorney.

11 (2) **IF THE OFFICE OF THE CHIEF MEDICAL EXAMINER FINDS**
12 **THAT A DEATH INVESTIGATED BY THE OFFICE WAS CAUSED BY OR RELATED TO**
13 **CHILD ABUSE OR NEGLECT, THE OFFICE SHALL SEND A COPY OF THE AUTOPSY**
14 **REPORT TO THE LOCAL DEPARTMENT AND APPROPRIATE LAW ENFORCEMENT**
15 **AGENCY.**

16 (3) (i) An agency to which an oral report of suspected abuse or
17 neglect is made under paragraph (1) of this subsection shall immediately notify the
18 other agency.

19 (ii) This paragraph does not prohibit a local department and an
20 appropriate law enforcement agency from agreeing to cooperative arrangements.

21 (c) Insofar as is reasonably possible, an individual who makes a report under
22 this section shall include in the report the following information:

23 (1) the name, age, and home address of the child;

24 (2) the name and home address of the child's parent or other person
25 who is responsible for the child's care;

26 (3) the whereabouts of the child;

27 (4) the nature and extent of the abuse or neglect of the child, including
28 any evidence or information available to the reporter concerning possible previous
29 instances of abuse or neglect; and

30 (5) any other information that would help to determine:

31 (i) the cause of the suspected abuse or neglect; and

1 (ii) the identity of any individual responsible for the abuse or
2 neglect.

3 (D) AN INDIVIDUAL WHO IS REQUIRED TO PROVIDE NOTICE UNDER
4 SUBSECTION (A) OF THIS SECTION OR MAKE A REPORT UNDER SUBSECTION (B)
5 OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE REQUIRED
6 NOTICE OR MAKE THE REQUIRED REPORT IS GUILTY OF A MISDEMEANOR AND
7 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

8 (E) AN INDIVIDUAL WHO IS REQUIRED TO PROVIDE NOTICE UNDER
9 SUBSECTION (A) OF THIS SECTION OR MAKE A REPORT UNDER SUBSECTION (B)
10 OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE REQUIRED
11 NOTICE OR MAKE THE REQUIRED REPORT MAY BE HELD CIVILLY LIABLE FOR
12 DAMAGES ARISING FROM THE FAILURE TO PROVIDE NOTICE OR MAKE THE
13 REPORT.

14 5-708.

15 Any person who PROVIDES OR PARTICIPATES IN PROVIDING NOTICE OF
16 ABUSE OR NEGLECT UNDER § 5-704(A) OR WHO makes or participates in making a
17 report of abuse or neglect under [§ 5-704] § 5-704(B), § 5-705, or § 5-705.1 of this
18 subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle
19 or participates in an investigation or a resulting judicial proceeding shall have the
20 immunity described under § 5-620 of the Courts and Judicial Proceedings Article from
21 civil liability or criminal penalty.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2012.